

LFC Requester:	Marty Daly
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**AGENCY BILL ANALYSIS
2016 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date February 17, 2016
Bill No: HB 120

Sponsor: Representative Conrad James **Agency Code:** 305
Short Adult Child Petitions **Person Writing** Jennifer Salazar, AAG
Title: For Visitation **Phone:** 827-6990 **Email** jsalazar@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A

Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

SECTION III: NARRATIVE

BILL SUMMARY

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

Synopsis:

The House Judiciary Committee Substitute (“Substitute”) for House Bill 120 enacts a new section of the Uniform Probate Code to allow a spouse, adult child, adult grandchild, parents, and adult siblings, to petition the court for visitation of an alleged incapacitated person.

Section 1 of the Substitute creates a “rebuttable presumption” that visitation by the referenced family members is in the “best interest” of an alleged incapacitated person. A petition for reasonable visitation must be verified and must state all the facts enumerated under Section 1(C).

Section 2 of the Substitute amends NMSA 1978, Section 45-5-313 to insert language authorizing petitions for visitation to be filed in either the court where the protected person resides or the court that appointed the guardian of the protected person.

Section 3 requires the bill to take effect immediately.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

There are several undefined terms referenced in the Substitute. The following terms used in Section 1 of the Substitute are currently undefined: (1) spouse; (2) adult grandchildren; and (3) adult siblings.

The term “child” is defined in the Uniform Probate Code, under NMSA 1978, § 45-1-201(A)(6), as follows: “an individual entitled to take as a child pursuant to the Uniform Probate Code by intestate succession from the parent whose relationship is involved and excludes a person who is only a stepchild, a foster child, a grandchild or any more remote descendant.” It is not clear whether this definition would need to be amended to better align with the bill’s intent.

Similarly, the only definition of “parent” in the Uniform Probate Code is found at NMSA 1978,

§ 45-5-101, and is as follows: “parent means a parent whose parental rights have not been terminated or relinquished.” Again, it is not clear whether this definition would need to be amended to better align with the bill’s intent.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A